THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 4571 of 2004

DATED: 29-08-2007

Between:-

Rajaka Seva Sangham, a society registered under the Societies Act represented by its President and Authorised Signatory Mr. Y. Krishna Murthy and another.

…PETITIONERS

And

Collector, Panchayat Wing, West Godavari District, Eluru and 3 others.

…RESPONDENTS

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 4571 of 2004

O R D E R

Questioning the action of the respondents, in seeking to construct an overhead tank in the portion of the land admeasuring Ac.6.00 cents in R.S. No. 248/1 and R.S. No. 34/7 at Madivadi, Akividu village and Mandal, West Godavari District and dispossessing the petitioners from the said area, as illegal and arbitrary, the present writ petition is filed. The petitioners seek consequential directions to the respondents not to dispossess their members or prevent them from carrying on any other activity.

The 1st petitioner, a society registered under the Societies Registration Act, was given land on lease in R.S. No. 248/1 and 34/7 of Akividu Gram Panchayat area for fishery rights of the tank and also for carrying on the avocation of Rajakas in the adjoining area. Petitioners would contend that, as per G.O.Ms. No. 892 dated 24-09-1954, separate tanks, other than those separated tanks meant for different purposes, should be reserved for washermen in every village. They would rely on G.O. Ms. No. 343 dated 10-04-1978 to contend that fishing rights of these tanks should be leased out to washermen

without selling them in auction. According to the petitioners, all Gram Panchayats were required to follow these instructions scrupulously. They would also refer to several circulars and instructions issued by the Government in this regard. They would submit that the tank, which is the subject matter of the lease, was being used by Rajakas of the Gram Panchayat for more than 120 years i.e. for more than three generations, that the lease is being renewed from time to time and that, while a portion of the land was given for a school, in the remaining portion the members of the petitioners society were carrying on activities of drying their clothes, installation of bhattis, as dwelling units for their families etc. They would contend that the 3rd respondent was proposing to construct an overhead tank, in the land under their occupation notwithstanding the fact that the lease in their favour was still subsisting, that, if the overhead tank was constructed, the construction activity would alter the water storage in the tank, would cause pollution to the fish in the entire area and would adversely affect avocation of their members in carrying on their activities in the left over open place. According to the petitioners, they have no other open place for avocation of their members and the 3rd respondent could, on the other hand, chose some other place for these purposes.

Learned Government Pleader for Panchayatraj would place before this Court a note submitted by the Divisional Panchayat Officer, Narasapuram, wherein it is stated that the Panchayat Secretary, Gram Panchayat, Akiveedu had submitted a report stating that the Gram

Panchayat had passed Resolution No. 44, dated 26-05-2004 resolving to shift the place of construction of the overhead storage reservoir to Thummala Cheruvu tank bund nearer to the office of the Tahsildar, Akiveedu and, since the proposed overhead storage reservoir was not being constructed on the land of Ralla Cheruvu tank bund, which is earmarked to the Rajaka Seva Sangam, Akividu and it was shifted by the Gram Panchayat itself, the writ petition had become infructuous.

Sri J. Prabhakar, learned counsel for the petitioners, would submit that on this submission of the Gram Panchayat being recorded, the cause in the writ petition would not necessitate adjudication.

Recording the submission of the learned Government Pleader, with reference to the note submitted by the Divisional Panchayat Officer, Narasapuram, that the overhead tank has since been shifted from the area where the petitioners were carrying on their avocation, the cause in the writ petition does not necessitate adjudication and is accordingly dismissed as infructuous. No costs.

_____

RAMESH RANGANATHAN, J

Dated: 29-08-2007
vp